

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF MASSACHUSETTS

MICHAEL J. FLYNN,)	CIVIL ACTION NO.
)	83-2642-C
Plaintiff,)	
)	ANSWER AND COUNTERCLAIM OF
vs.)	MARY SUE HUBBARD, INTERVENOR-
)	DEFENDANT
LAFAYETTE RONALD HUBBARD)	
a/k/a L. RON HUBBARD,)	
)	
Defendant,)	
)	
AND)	
)	
MARY SUE HUBBARD,)	
)	
Intervenor-Defendant))	

Intervenor-Defendant, MARY SUE HUBBARD, by her attorney,
hereby answers plaintiff's complaint as follows:

1. Admits the allegations of paragraph 1.
2. Denies the allegations of paragraph 2, except admits that L. Ron Hubbard has stated that he desires his present whereabouts to be unknown, and that they are in fact unknown to the plaintiff.
3. Denies the allegations of paragraph 3.
4. Denies the allegations set forth in the introductory section of paragraph 4.
 - (a) Denies the allegations of paragraph 4(a), except admits that Mr. Hubbard wrote the two books mentioned and that the copyrights are held in his name, and admits that the two books are available for sale in the four states alleged, and lacks knowledge or information sufficient to form a belief as to

the truth of the averments as to the manner, if any, in which Mr. Hubbard receives income from the sale of said publications.

(b) Denies the allegations of paragraph 4(b).

(c) Denies the allegations of paragraph 4(c), except admits that the copyright for any books written by Mr. Hubbard are held in his name, and lacks knowledge or information sufficient to form a belief as to the truth of the averments as to the annual gross income derived from the sale of such books.

(d) Denies the allegations of paragraph 4(d), except admits that Mr. Hubbard has assigned certain rights with respect to certain trade marks to RTC.

(e) Denies the allegations of paragraph 4(e).

5. Denies the allegations of paragraph 5, except admits that L. Ron Hubbard is the founder of the religion of Scientology.

6. Denies the allegations of paragraph 6.

7. Denies the allegations of paragraph 7.

8. Denies the allegations of paragraph 8.

9. Denies the allegations of paragraph 9, except lacks knowledge or information sufficient to form a belief as to the truth of the averments as to what is in plaintiff's possession.

10. Denies the allegations of paragraph 10.

11. Denies the allegations of paragraph 11.

12. Denies the allegations of paragraph 12.

13. Denies the allegations in paragraph 13.

14. Denies the allegations of paragraph 14, except admits that plaintiff undertook the legal representations of Van

Schaick, and that plaintiff wrote a letter requesting a refund for her in the amount of \$12,896.75.

15. Denies the allegations of paragraph 15.

16. Denies the allegations of paragraph 16, except admits that the Church of Scientology of Boston sent a letter to plaintiff dated September 11, 1979, offering to pay plaintiff's client, Van Schaick, a \$6,268 refund (which amount was raised by negotiation between counsel for the parties to \$8,594.04), and pointing out that Van Schaick had signed an agreement never to sue Scientology or Mr. or Mrs. Hubbard; and further except that intervenor-defendant lacks knowledge or information sufficient to form a belief as to the truth of the averments as to what phone calls plaintiff received from his clients, relatives and friends (if any), or the nature of plaintiff's relationship with Phillis Sequeira.

17. Denies the allegations of paragraph 17, except lacks knowledge or information sufficient to form a belief as to the truth of the averments as to what anonymous telephone calls plaintiff received.

18. Defendant-Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments of ¶18, except denies that any of the acts alleged were performed by individuals acting on orders from Mr. Hubbard.

19. Defendant-Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments of

¶19, except denies that water balloons were placed in the tanks of plaintiff's airplane by "agents of the G.O., on orders of Mr. Hubbard."

20. Denies the allegation of paragraph 20, except admits that Van Schaick has made such claims against the Church of Scientology of California in another lawsuit presently pending before this court, which claims have been denied, and further admits that the Church of Scientology of California, not Mr. Hubbard, sent Gary Klingler to speak to Van Schaick in an attempt to reassure her that the Church was not engaged in any acts against her.

21. Denies the allegations of paragraph 21, except admits that nine then staff members or officials of the Church of Scientology of California, including the intervenor-defendant, were, on a limited stipulated record of the evidence which the government claimed it would introduce (the truth of which record was not stipulated to), each found guilty of a single count of the indictment, and further admits that various documents were improperly released by the district court in that case, until the United States Court of Appeals for the District of Columbia Circuit reversed the district court's order on the grounds that it violated the privacy rights of the Church of Scientology of California and its members.

22. Defendant-Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments of

¶22, except admits that plaintiff brought a lawsuit on behalf of Van Schaick, naming as defendants not only the Church of Scientology of California, but also L. Ron Hubbard.

23. Denies the allegations of paragraph 23.

24. Denies the allegations of paragraph 24, except admits that the Church of Scientology of Nevada filed an action in federal court entitled Church of Scientology of Nevada, et al. v. La Venda Van Schaick, et al., Civil LV 80-10 EHL, which did not name the plaintiff as a defendant. The action ultimately was dismissed on the ground that the federal court lacked subject matter jurisdiction over the action. A state court action subsequently was filed against some but not all of the defendants in the federal action and, upon information and belief, is still pending.

25. Denies the allegations of paragraph 25, except (1) admits that the President of the Church of Scientology of Boston filed a complaint against the plaintiff with the Massachusetts Board of Bar Overseers on January 15, 1980; (2) further admits that the President of the Boston Church filed supplements to his bar complaint on February 7, 1980 and April 3, 1980; (3) further admits that the Assistant Bar Counsel of the Massachusetts Board of Bar Overseers recommended no action be taken on the basis of said complaint; (4) further admits that the President of the Boston Church filed a new bar complaint against the plaintiff on November 19, 1980; and (5) further admits that the Assistant Bar Counsel of the Massachusetts Board of Bar Overseers also declined to take action on the second bar complaint. As to the contents

of said bar complaints and supplements, defendant-intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments.

26. Denies the allegations of paragraph 26, except admits that in May, 1980, the Church of Scientology of Nevada filed a state court action against various individuals, not including the plaintiff, admits that said action was dismissed as against Kevin Flynn for lack of personal jurisdiction, and avers that said action is still otherwise pending.

27. Denies the allegations of paragraph 27, except admits that the Church of Scientology of Boston filed the action referred to against the plaintiff and four others. The complaint alleged that the four other individuals had stolen documents from the Church of Scientology of Boston and had turned them over to the plaintiff for use in lawsuits against the Church of Scientology of Boston. On April 11, 1980, the Massachusetts Superior Court issued a preliminary injunction prohibiting the plaintiff herein to return certain documents to the Church of Scientology of Boston, further requiring him to lodge certain other documents with the court for safekeeping, and further enjoining the plaintiff from using the remaining documents except in limited circumstances and upon notice to the Church of Boston.

28. Denies the allegations of paragraph 28, except admits that the Church of Scientology of Nevada, Inc. and Charles Orr, President of that Church, filed the action referred to against plaintiff in the Eighth Judicial District Court of the State of Nevada in and for the County of Clark, avers that the basis for

the complaint is set forth therein, and avers that the plaintiff's motion to quash service of process was granted on the grounds that the court lacked personal jurisdiction over plaintiff.

29. Denies the allegations in paragraph 29.

30. Denies the allegations in paragraph 30, except admits that Mr. Tighe and Warren Friske lawfully retrieved various items from the plaintiff's abandoned trash between 1979 and 1981.

31. Defendant-Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments of ¶31, and avers that said allegations constitute legal characterizations of the nature of certain items, and as such should be stricken. Intervenor-defendant denies the characterization of said items.

32. Denies the allegations of paragraph 32.

33. Denies the allegations of paragraph 33, except admits that plaintiff filed the suit on behalf of Tonja Burden in the case referred to therein. Intervenor-defendant avers that the remainder of the allegations of paragraph 33 constitute opinion and conclusions, and should be stricken, and denies their characterization by Plaintiff.

34. Denies the allegations of paragraph 34, except admits that plaintiff's deposition was taken by attorneys representing various churches of Scientology, or Scientologists, on six occasions, of which four were well after the time period referred to and avers that the term "his employees and colleagues" is so vague that it is impossible to obtain knowledge or information

sufficient to affirm or deny the allegation insofar as it relates to such individuals.

35. Denies the allegations of paragraph 35, except admits that plaintiff met with Jay Roth, an attorney representing and retained by the Church of Scientology of California, in February 1981, to discuss settlement of various cases which plaintiff had brought or threatened to bring against various churches of Scientology. At that meeting, plaintiff gave to Mr. Roth the "analysis" referred to in paragraph 35 of the complaint.

36. Defendant-Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments of ¶36, except denies the allegation that any documents were stolen or taken in any way from plaintiff's office.

37. Defendant-Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments as to the nature of the conference referred to in paragraph 37, and denies all other allegations of said paragraph.

38. Denies the allegations of paragraph 38.

39. Denies the allegations of paragraph 39, except admits that the Church of Scientology of California was aware that plaintiff was considering the commencement of various lawsuits against Churches of Scientology, since Mr. Flynn threatened to do so in an attempt to coerce the Church into a large settlement on behalf of Mr. Flynn and his clients.

40. Denies the allegations of paragraph 40, except admits that the City of Clearwater, Florida, hired plaintiff for the improper purpose of ridding Clearwater of Scientology.

41. Denies the allegations of paragraph 41, except lacks knowledge or information sufficient to form a belief as to the truth of the averments as to whether plaintiff expended \$200,000 to finance litigation on behalf of his contingency fee clients, and further avers that it was plaintiff who wrote a letter to Mr. Roth suggesting a settlement of all litigation against the Church, including cases not brought, for the sum of \$1.6 million dollars, and threatening to bring massive additional litigation if the settlement offer was not accepted.

42. Denies the allegations of paragraph 42, and further avers that the allegations are too vague as to time period and content to permit an informed response.

43. Denies the allegations of paragraph 43.

44. Denies the allegations of paragraph 44, and further avers that Scientology organizations and individuals have taken necessary, appropriate and legal steps to defend themselves against the outrageous legal, public relations, and media campaign led and orchestrated by plaintiff over the past several years, and that, where necessary, such defense has included efforts to demonstrate to the public, the media, and the courts the true nature of plaintiff and his unholy campaign.

45. Denies the allegations of paragraph 45, except admits that Harvey Silverglate wrote a letter to the Bar Counsel of the Massachusetts Board of Bar Overseers in August 1981.

46. Denies the allegations of paragraph 46, except admits that Mr. Silverglate filed three separate bar complaints in November, 1981, which are still pending.

47. Denies the allegations of paragraph 47, except admits that Steven Miller brought the action referred to in an effort to redeem and protect his civil rights.

48. Denies the allegations of paragraph 48, except admits that Ellen and Chris Garrison brought the action referred to in an effort to protect and redeem their civil rights.

49. Denies the allegations of paragraph 49, except admits that motions to disqualify the plaintiff as counsel were filed by the Church of Scientology of California in the Garrity and Burden cases.

50. Denies the allegations of paragraph 50, and avers that the allegations are a mere statement of opinion which have no place in a properly drafted legal complaint and should be stricken, and denies their characterization by Plaintiff.

51. Denies the allegations of paragraph 51.

52. Denies the allegations of paragraph 52.

53. Denies the allegations of paragraph 53, except (1) lacks knowledge or information sufficient to form a belief as to the truth of the averments as to the number of hours plaintiff spent on any matter, (2) admits that the Church of Scientology of California filed an abuse of process action in California, which was dismissed with leave to amend the complaint, (3) admits that an amended complaint was filed in the abuse of process action, which amended complaint was also dismissed, (4) avers further that the dismissal of the amended abuse of process action was appealed by the Church of Scientology of California, and that said appeal is still pending, and (5) admits that the Flag

Service Organization, Inc. filed an action against the City of Clearwater and the plaintiff to prevent the City and plaintiff, its retained special counsel, from conducting a constitutionally improper public inquiry into the nature of the beliefs and practices of Scientology.

54. Denies the allegations of paragraph 54, except admits the allegation of ¶54(b) that plaintiff was held in criminal contempt of court by the Volusia County, Florida, Superior Court in Cazares v. Church of Scientology of California, Inc., Civil #81-3472-CA 01.

55. Denies the allegations of paragraph 55.

56. Denies the allegations of paragraph 56.

57. Repeats and realleges the denials and averments of paragraphs 1-56 above as if fully set forth herein.

58. Denies the allegations of paragraph 58, including the allegations contained in all of the subparagraphs thereof.

59. Denies the allegations of paragraph 59, which is misnumbered as paragraph 57 on page 54 of the complaint.

60. Repeats and realleges the denials and averments of paragraph 1-59 above as if fully set forth herein.

61. Denies the allegations of paragraph 61.

62. Denies the allegations of paragraph 62.

63. Denies the allegations of paragraph 63.

64. Repeats and realleges the denials and averments of paragraph 1-63 above as if fully set forth herein.

65. Denies the allegations of paragraph 65.

66. Denies the allegations of paragraph 66.
67. Denies the allegations of paragraph 67.
68. Repeats and realleges the denials and averments of paragraphs 1-67 above as if fully set forth herein.
69. Denies the allegations of paragraph 69.
70. Denies the allegations of paragraph 70.
71. Repeats and realleges the denials and averments of paragraph 1-70 above as if fully set forth herein.
72. Denies the allegations of paragraph 72.
73. Denies the allegations of paragraph 73.
74. Denies the allegations of paragraph 74.
75. Repeats and realleges the denials and averments of paragraphs 1-74 above as if fully set forth herein.
76. Denies the allegations of paragraph 76.
77. Denies the allegations of paragraph 77.
78. Repeats and realleges the denial and averments of paragraphs 1-77 above as if fully set forth herein.
79. Denies the allegations of paragraph 79.
80. Denies the allegations of paragraph 80.
81. Denies the allegations of paragraph 81.
82. Denies the allegations of paragraph 82.
83. Repeats and realleges the denials and averments of paragraph 1-82 above as if fully set forth herein.
84. Denies the allegations of paragraph 84, and refers the Court to the provisions of M.G.L. ch. 214 §1(b), for the precise scope of said statute.

85. Denies the allegations of paragraph 85.

86. Denies the allegations of paragraph 86.

87. Repeats and realleges the denials and averments of paragraphs 1-86 above as if fully set forth herein.

88. Denies the allegations of paragraph 88, except admits that one of the parties, i.e., the plaintiff, is engaged in trade within the meaning of Mass. G.L.c. 93A.

89. Denies the allegations of paragraph 89.

90. Denies the allegations of paragraph 90.

91. Repeats and realleges the denials and averments of paragraphs 1-91 above as if fully set forth herein.

92. Denies the allegations of paragraph 92.

93. Denies the allegations of paragraph 93.

94. Repeats and realleges the denials and averments of paragraphs 1-93 above as if fully set forth herein.

95. Denies the allegations of paragraph 95, except admits that 18 U.S.C. §1964(c) contains provisions relating to damages, and refers the Court to the contents of said statute for its exact scope and language.

96. Denies the allegations of paragraph 96, except admits that 18 U.S.C. §1962 makes unlawful certain activities, and refers the Court to said statute for its exact scope and language.

97. Denies the allegations of paragraph 97.

98. Denies the allegations of paragraph 98, except admits that 18 U.S.C. §1961 defines the term "racketeering activity" as

used in Chapter 96 of the United States Code of Crimes and Criminal Procedures, and refers the Court to said statute for its exact scope and language.

99. Denies the allegations of paragraph 99, except admits that L. Ron Hubbard was the founder of the religion of Scientology.

100. Denies the allegations of paragraph 100.

101. Denies the allegations of paragraph 101.

102. Denies the allegations of paragraph 102, except admits that the Churches of Scientology hold themselves out to the public and are, in fact, legitimate, law-abiding, religious non-profit institutions.

103. Denies the allegations of paragraph 103.

104. Denies the allegations of paragraph 104.

105. Denies the allegations of paragraph 105.

106. Denies the allegations of paragraph 106.

107. Denies the allegations of paragraph 107.

108. Denies the allegations of paragraph 108.

109. Denies the allegations of paragraph 109.

110. Denies the allegations of paragraph 110.

Intervenor-Defendant also denies the unnumbered claims for damages contained in the complaint.

AFFIRMATIVE DEFENSES

In further answer and defense of plaintiff's claims, Intervenor-Defendant asserts the following Affirmative Defenses,

without waiving and and specifically reserving her position that the burden of proof for each of these enumerated defenses actually rests with plaintiff.

FIRST AFFIRMATIVE DEFENSE

This court lacks subject matter jurisdiction over the instant suit.

SECOND AFFIRMATIVE DEFENSE

The complaint fails to state facts sufficient to constitute a cause of action or claim for relief.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrine of laches and estoppel.

FIFTH AFFIRMATIVE DEFENSE

On April 9, 1982, plaintiff commenced an action in the Superior Court of Massachusetts, Civil Action No. 54258, alleging substantially identical claims to those set forth in the complaint herein. Said action is now pending and not decided. The present action, therefore, constitutes duplicative litigation and the splitting of a cause of action. Plaintiff must be barred from proceeding with this action.

SIXTH AFFIRMATIVE DEFENSE

The acts complained of were not known to, or participated in or engaged in by defendant or by Intervenor-Defendant; nor were they authorized, directed, endorsed or approved by them; nor were they done under their direction or supervision; nor did they permit such acts to occur; nor did they ratify or sanction such acts; nor did they have authority, power, or ability to do so; nor were any such acts or conduct carried out by agents of defendant or Intervenor-Defendant. Accordingly, defendant and Intervenor-Defendant are not liable to plaintiff for any acts or conduct alleged in the complaint.

SEVENTH AFFIRMATIVE DEFENSE

The claims set forth in the complaint are barred by reason of improper venue.

EIGHTH AFFIRMATIVE DEFENSE

The litigation of the claims set forth in the complaint may not proceed in the District of Massachusetts by reason of the doctrine of Forum non conveniens.

NINTH AFFIRMATIVE DEFENSE

The First Amendment of the United States Constitution and Articles 2 and 46 of the Massachusetts Declaration of Rights prohibit and bar adjudication or recovery upon plaintiff's complaint.

TENTH AFFIRMATIVE DEFENSE

The complaint constitutes a fraud and a sham, and should be stricken in whole or in part, pursuant to Rule 11 of the Federal Rules of Civil Procedure.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff lacks standing in whole or in part to seek judicial relief for the acts and claims alleged in the complaint.

TWELFTH AFFIRMATIVE DEFENSE

The complaint constitutes an improper attempt to involve the court in the supervision of proceedings in other courts, some of which are still pending, and as a matter of comity and jurisdiction the court should not involve itself in such an inquiry.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to join indispensable parties under Federal Rule of Civil Procedure 19, has failed to comply with the mandates of Federal Rule of Civil Procedure 19(c), and, accordingly, the complaint must be dismissed.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims based upon alleged written or oral statements made by officers, members, representatives, or attorneys of Scientology organizations are barred, in whole or in part, because the statements alleged are protected and privileged under the First Amendment to the Constitution of the United States, and under the Constitutions and the statutory and common law, of all relevant state jurisdictions.

INTERVENOR-DEFENDANT MARY SUE
HUBBARD'S COUNTERCLAIM FOR
MALICIOUS PROSECUTION, ABUSE OF
PROCESS AND LIBEL; DEMAND FOR
A JURY TRIAL.

Intervenor and Counterclaimant MARY SUE HUBBARD alleges:

PARTIES AND JURISDICTION

1. Counterdefendant MICHAEL J. FLYNN is, and at all times herein has been, an attorney at law whose offices are located in Boston, Massachusetts. He is a citizen of the State of Massachusetts.

2. Counterclaimant MARY SUE HUBBARD is, and at all times herein has been, a citizen of the State of California and a resident of the County of Los Angeles, California. She is the wife of L. Ron Hubbard, the Founder of the religion of Scientology, to whom she has been married since 1952.

3. This is an action for damages in excess of Ten Thousand Dollars (\$10,000.00), exclusive of interest and costs. Jurisdiction of this court is conferred by Title 28, United States Code, Section 1332(a)(1), based upon the diversity of citizenship of the parties.

FACTUAL BACKGROUND

4. Beginning sometime in 1979 or early 1980, Counterdefendant Flynn determined that it was in his economic interest to promote his law practice as a center of litigation

against various Churches of Scientology. As part of the development of this litigation, he determined that it was advantageous to his law suits to name L. Ron Hubbard, the Founder of the religion of Scientology, and Mary Sue Hubbard, the wife of L. Ron Hubbard and the Controller of the Church of Scientology of California until May, 1981, as additional defendants in Flynn's suits against various Churches of Scientology. By the summer of 1982, Counterdefendant Flynn had concentrated his law practice on this "Scientology litigation." By that time, Flynn was the attorney, or one of the attorneys, for the plaintiff or plaintiffs in at least the following suits (hereafter collectively referred to as the "Scientology litigation") in which various Churches of Scientology, L. Ron Hubbard, and/or Mary Sue Hubbard are named as defendants:

- A. La Venda Van Schaick v. Church of Scientology of California, Civil Action No. 79-2491-G (United States District Court, D. Mass.).
- B. Jose Baptista vs. Church of Scientology Mission of Cambridge, Inc. Civil Action No. 81-1194 (Middlesex County, Mass., Superior Court).
- C. Peggy Bear vs. Church of Scientology of New York, et al., Civil Action No. 81-4688 (United States District Court, S.D.N.Y.).
- D. Tonja C. Burden v. Church of Scientology, L. Ron Hubbard, and Mary Sue Hubbard, Civil Action 80-501-C-T-K (United States District Court, M. Fla.)

- E. Carol A. Garrity, et al. vs. Church of Scientology, L. Ron Hubbard, and Mary Sue Hubbard, Civil Action NO. 81-3260 (CBM) (United States District Court, C.D.Cal.)
- F. Marjorie J. Hansen vs. Church of Scientology of California, et al., Superior Court No. 41074 (Suffolk County, Mass., Superior Court).
- G. Thomas Jefferson vs. Church of Scientology, L. Ron Hubbard, and Mary Sue Hubbard, Civil Action No. 1-3261 (CBM) (United States District Court, C.D. Cal.).
- H. Dana Lockwood vs. Church of Scientology, L. Ron Hubbard, and Mary Sue Hubbard, Civil Action No. 81 4109 (CBM) (United States District Court, C.D.Cal.).
- I. Jane Lee Peterson, et al. vs. Church of Scientology, L. Ron Hubbard, and Mary Sue Hubbard, Civil Action No. 81-3259 (CBM) (United States District Court, C.D.Cal.).
- J. Steven Garritano vs. Church of Scientology of California, L. Ron Hubbard, Mary Sue Hubbard, et al., Civil Action No. 40906 (Suffolk County, Mass., Superior Court).
- K. Janet Troy vs. Church of Scientology of Boston, et al., Civil Action No. 41073 (Suffolk County, Mass., Superior Court)
- L. Donald Bear vs. Church of Scientology of New York, et al., No. 81-CIV-6864 (MJL) (United States District Court, S.D.N.Y.).
- M. Paulette Cooper vs. Church of Scientology of California, No. C 256783 (United States District Court, C.D. Cal.).

- N. Paulette Cooper v. Church of Scientology of New York, et al., No. 6732172 (Supreme Court of New York, County of New York).
- O. Paulette Cooper v. Church of Scientology of Boston, L. Ron Hubbard and Mary Sue Hubbard, No.81-681-Mc (United States District Court, D. Mass).
- P. Gerald Armstrong v. Church of Scientology of California and L. Ron Hubbard, No. 420153 (Los Angeles, California, Superior Court).

On information and belief, Flynn's financial arrangement in all of the above named cases is that he and other counsel bear the expense of all costs incurred in connection with the litigation, and receive a contingency fee ranging as high as 50% or more on any plaintiffs' recoveries.

In some of the above named suits, Counterdefendant Flynn appeared as plaintiffs' counsel of record and in others he did not appear of record but nonetheless was plaintiffs' counsel.

5. On information and belief, Flynn also has some type of fee sharing or associational relationship with the counsel for plaintiffs in the following cases:

- A. Gabriel Cazares and Margaret Cazares v. Church of Scientology of California, No. 81-3472-CA-01-F (Volusia County, Fla., Circuit Court).
- B. Gabriel Cazares and Margaret Cazares v. Church of Scientology of California, L. Ron Hubbard, and Mary Sue Hubbard, No. 82-886-C-T-WC (United States District Court, M. Dist. Fla.).

- C. Nancy McLean and John McLean v. Church of Scientology of California, L. Ron Hubbard, Mary Sue Hubbard, No. 81-174-C-T-K (United States District Court, M. Dist. Fla.)
- D. Julie Christofferson v. Church of Scientology Mission of Davis, L. Ron Hubbard, et al., No. A77-04-05184 (Multnomah County, Oregon, Circuit Court).

6. On information and belief: As Counterdefendant Flynn became involved in this "Scientology litigation," he developed a plan designed to force Scientology to settle the cases quickly or otherwise obtain quick and large money judgments against Scientology. This plan was developed in early 1981. The plan entailed the formation, by Flynn's brother, Kevin, of a corporation called FAMCO (Flynn Associates Management Corporation), which would sell shares to the public and act as a consultant to Flynn and attorneys associated with him in his Scientology litigation in exchange for a percentage of the ultimate recovery, and which would assist in disaffecting as many Scientologists as possible. Flynn was an incorporator, and the secretary, of FAMCO. These disaffected Scientologists would then become clients of Counterdefendant Flynn, and his associated attorneys, who would file damage suits against various Churches of Scientology, L. Ron Hubbard and/or Mary Sue Hubbard on behalf of these clients. A further part of this plan involved generating adverse media coverage of Scientology and L. Ron Hubbard, publicly discrediting Scientology in an effort to force the closing of various Scientology organizations, promoting federal and state

governmental attacks on Scientology, and generally attempting to create a hostile public environment toward Scientology. It also included recruiting large numbers of attorneys who would sue Scientology, L. Ron Hubbard, and/or Mary Sue Hubbard, and providing the attorneys with "turn-key lawsuits," including clients, pleadings, evidence, documents, memoranda, witnesses, and general trial preparation materials. Flynn, in exchange, would receive a percentage of each plaintiff's recovery. It was contemplated that hundreds of such suits would be filed.

7. To the extent he was able, Counterdefendant Flynn and his associates implemented the plan described in ¶6. Despite his efforts, however, Flynn was unsuccessful in either forcing a large financial settlement or obtaining any favorable verdicts from his Scientology litigation. Instead, the various Churches of Scientology that Flynn had sued, as well as Mary Sue Hubbard, appeared as named defendants and vigorously contested the claims which Flynn's clients had made. On information and belief, it became clear to Flynn at some point in 1981 that he faced numerous legal and factual obstacles in ever obtaining a favorable financial recovery from the litigation; that extensive further litigation would be required to continue his effort; and that it could be years before his clients got any recovery, and they might not receive any recovery at all.

8. Scientology Founder L. Ron Hubbard went into seclusion in approximately March, 1980, and has not been seen by his family, or by any Church office, since that date.

9. On information and belief: Flynn, who had sued Mr. Hubbard as a named defendant in many of his suits (see ¶4), determined sometime in 1981 that a potentially short road to obtain a financial return from his litigation was to concentrate on obtaining a default judgment against Mr. Hubbard, who, in contrast to the Scientology Churches and Mary Sue Hubbard, was not personally appearing and litigating the suits naming him. Flynn determined that this concentration was advantageous because any attack on Mr. Hubbard was particularly sensitive to the Scientology Churches, which revere Mr. Hubbard as the Founder and sole source of doctrine of their religion and view him as one of the towering figures in the history of human civilization. Flynn hoped that focusing on Mr. Hubbard would force Scientology to settle favorably with him as a means of protecting Mr. Hubbard. In addition, Flynn hoped that he could obtain rapid default judgments against Mr. Hubbard if he could not force a settlement by the Scientology Churches, and thus obtain a quick financial return in that form. However, Flynn found this hope for a successful financial conclusion to his litigation stymied in that the Scientology Churches responded to his concentrated attacks on Mr. Hubbard with stiffened resolve. And, despite the fact that Mr. Hubbard had not appeared in the suits naming him, Flynn had not been able, as of Summer, 1982, to obtain default judgments against Mr. Hubbard. Around that time, Flynn realized that, in suits where various Churches of Scientology and/or Mary Sue Hubbard were defendants who were actively defending themselves,

he was not likely to obtain quick default judgments against co-defendant Mr. Hubbard.

10. On information and belief: By the summer of 1982, Flynn reached the conclusion that he must devise a new means to achieve a rapid financial return on his "Scientology litigation," which now completely dominated his law practice and on the success of which his financial well being and legal career rested. Flynn determined that, while continuing his previous efforts, he could only obtain a rapid financial return by concentrating even more specifically on Mr. Hubbard as the vulnerable point in the litigation. He developed a plan which involved identifying and if possible securing Mr. Hubbard's personal assets -- which Flynn had been unable to do in the previous litigation -- so that he could collect on those assets in the context of obtaining a default judgment against Mr. Hubbard; identifying Mr. Hubbard's whereabouts for service of process; and then bringing a massive, unprovable and unfounded suit against L. Ron Hubbard alone, naming no other party defendants. Flynn's plan was to obtain a default judgment against Mr. Hubbard, and avoid the problems he had faced in attempting to obtain previous default judgments against Mr. Hubbard because of the presence of other defendants who actively litigated against his claims. In this way, Flynn determined that he could force the defendants in his Scientology litigation to provide him a large financial settlement of his outstanding cases, or he could obtain a default judgment against Mr. Hubbard and collect on his assets.

FIRST CAUSE OF ACTION:

MALICIOUS PROSECUTION

11. Intervenor and Counterclaimant realleges paragraphs 1 through 9.

12. In approximately August or September, 1980, Counterdefendant Flynn came into contact with Ronald DeWolf, the eldest son of L. Ron Hubbard from his first marriage. Mr. DeWolf is not related by blood to Counterclaimant Mary Sue Hubbard. The contact between Mr. DeWolf and Flynn arose from the fact that DeWolf had long been estranged from and antagonistic to L. Ron Hubbard and had, on many occasions, publicly attacked his father and Scientology. Mr. DeWolf, who had not seen his father since 1959, and who had, in 1972, renounced in writing any claim he might have to his father's estate, retained Flynn as his counsel to represent him in developing legal claims for Mr. DeWolf against L. Ron Hubbard, against one or more Churches of Scientology and/or against Mary Sue Hubbard. Mr. DeWolf also agreed to assist Flynn in his "Scientology litigation" by providing him information and acting as a witness on behalf of Flynn and his clients.

13. In order to identify and if possible secure Mr. Hubbard's assets and/or whereabouts, to advance Flynn's position in any way possible in his Scientology litigation, and to assist Mr. DeWolf to obtain a financial recovery to which he had no legitimate entitlement, Flynn counseled, advised and instigated Mr. DeWolf to file an action designed to accomplish these objectives. On November 10, 1982, pursuant to Flynn's counsel, advice

and instigation, Ronald DeWolf commenced an action under California Probate Code §§260 et seq. to have L. Ron Hubbard declared a "missing person" under the Probate Code. More particularly, Mr. DeWolf alleged that L. Ron Hubbard was a "missing person" who was either dead or mentally incompetent and alleged that his assets were being dissipated by Scientologists purporting to handle Mr. Hubbard's affairs. Through his petition, Mr. DeWolf sought to be appointed trustee over the estate of L. Ron Hubbard. This action was filed in the Superior Court of the State of California, County of Riverside, entitled In re the Estate of L. Ron Hubbard, No. 47150 (hereafter "the probate suit" or "the probate action"). The probate petition contained lengthy allegations accusing Mr. Hubbard of criminality, venality, fraud, insanity, and other similar matters, all of which were stricken by the court because these accusations were irrelevant to the germane issues in the petition. DeWolf relied completely on information provided by Flynn in making the allegations which were not stricken by the court as irrelevant. Flynn had a contingency fee arrangement with DeWolf whereby he would be paid by DeWolf out of funds DeWolf obtained from Mr. Hubbard's estate or would be paid directly by the estate.

14. Flynn did not appear as counsel of record in the initial filing of the probate suit, but he nonetheless acted as the chief counsel for Mr. DeWolf in the suit. Flynn continued to counsel, advise and instigate Mr. DeWolf to press and maintain the action throughout its duration.

15. A few days prior to the filing of the probate suit, Flynn contacted counsel for Mary Sue Hubbard in an effort to persuade Mrs. Hubbard to join in the probate suit. In the course of a telephone conversation on November 9, Mrs. Hubbard's counsel advised Flynn that Mrs. Hubbard's position was that Flynn and DeWolf had a conflict of interest in light of their desires to extract money from Mr. Hubbard's estate and adverse interests to Mr. Hubbard; that the action was baseless because, although she did not know the whereabouts of her husband, she was supported by him and received regular correspondence from him and he was not a "missing person"; that Mr. DeWolf had no legitimate interest in Mr. Hubbard's estate and, indeed, had been disinherited by Mr. Hubbard; and that the whole concept of the probate suit was based in bad faith on the part of Flynn and Mr. DeWolf. In response, Flynn denied a conflict of interest on the theory that he and his other clients were inchoate creditors of Mr. Hubbard. Flynn also indicated his belief that, in order to oppose this petition, someone would have to come forward and make a strong showing that Mr. Hubbard is alive and responsible for his affairs. Flynn expressed the opinion that an individual would have to come forward who could show that he or she is authorized to handle Mr. Hubbard's affairs, and that this in turn would open up depositions establishing a chain of discovery to Mr. Hubbard himself. Flynn commented that, in light of the position taken by the Church, and to some extent by Mrs. Hubbard, in various civil cases, he believed it would be very difficult for anyone to now come forward and make such a showing, and that if such a showing

were made, it would contradict the prior positions which had been taken by the Church and/or Mrs. Hubbard. In a letter sent to Mr. Flynn dated November 11, 1982, Mrs. Hubbard's counsel confirmed her position and advised Mr. Flynn that, in light of the statements he had made to Mrs. Hubbard's counsel on the telephone, there was already a question of whether the action constituted an abuse of process.

16. On information and belief, Flynn, either directly or indirectly, initiated and/or encouraged press and media awareness and coverage of the probate suit and provided copies of the probate petition to various media representatives. Flynn and Mr. DeWolf spoke with several media representatives concerning the probate suit and communicated the erroneous and/or irrelevant allegations contained therein. On information and belief, Flynn counseled, advised and instigated DeWolf to maximize his media exposure and publicize the allegations contained in the probate petition.

17. Shortly after the probate suit was filed, Mary Sue Hubbard appeared as respondent in it and opposed the petition for appointment of a trustee. Mary Sue Hubbard has been married to L. Ron Hubbard since 1952, was at that time and presently is solely dependent upon him for her support, and was and is a legatee under Mr. Hubbard's will. That support, her interest in her husband's estate, and the tranquility of her marital relationship were threatened by the probate suit.

18. Subsequently Flynn applied to appear as Mr. DeWolf's counsel pro hac vice in the probate suit. He did this despite

the fact that he had a patent conflict of interest and collateral purposes in acting as counsel to Mr. DeWolf on the probate suit. The court denied Flynn's application in an order dated March 22, 1983, finding that Flynn was disqualified from acting as Mr. DeWolf's counsel because he had a conflict of interest with L. Ron Hubbard, his estate, and his heirs (including Mary Sue hubbard), in that Mr. Flynn was representing litigants seeking damages from L. Ron Hubbard and Mary Sue Hubbard, and in that the purpose of the probate action was supposed to be the protection of L. Ron Hubbard, his assets, his estate and his heirs. Flynn had previously acted as lead attorney for Mr. DeWolf, including taking the major portion of the depositions in the probate suit, which were held on the East Coast. After his disqualification, Flynn continued to play a central advisory role to DeWolf in the probate suit, as well as a central role in drafting relevant legal papers.

19. Early in the probate suit, the court entered an order requiring that neither party disclose the contents of any discovery taken in the case except insofar as was necessary in good faith to prepare and litigate the suit. The order specifically required that discovery not be disclosed to any attorneys representing parties suing L. Ron Hubbard, Mary Sue Hubbard, or any Scientology organization, and that discovery in the suit not be used in any other proceedings, either directly or indirectly. On July 8, 1983, Flynn was adjudged in contempt of court in the probate suit for having, on two separate occasions, violated this order by disclosing the contents of discovery taken

in the probate suit for use in other suits in which he was involved as part of his Scientology litigation.

20. On or about June 28, 1983, the Superior Court of the State of California, County of Riverside, granted Mrs. Hubbard's Motion for Summary Judgment and dismissed the probate suit, thereby resulting in a termination of the suit favorable to Mrs. Hubbard. On July 14, 1983, judgment for Mary Sue Hubbard as respondent was entered in the probate suit.

21. At the time of the commencement of the suit, Flynn did not have probable cause to believe that L. Ron Hubbard was a "missing person" within the meaning of and as required by California Probate Code §260.

22. At the time of the commencement of the suit, Flynn did not have probable cause to believe that L. Ron Hubbard's estate was in need of attention, supervision and care of ownership, within the meaning of and as separately and independently required by California Probate Code §260.

23. Flynn further acted without probable cause in that, after discovery had been conducted in the probate suit, he counseled, advised and instigated that it be maintained even after being provided information demonstrating that L. Ron Hubbard was not a "missing person" within the meaning of California Probate Code §260.

24. Flynn further acted without probable cause in that, after discovery had been conducted in the suit, he counseled, advised and instigated that it be maintained even after being provided information demonstrating that L. Ron Hubbard's estate

was not in need of attention, supervision and care of ownership within the meaning of California Probate Code §260.

25. Flynn acted maliciously in counseling, advising and instigating the bringing and maintaining of the probate action in that it was commenced and maintained without probable cause and for collateral purposes which included: (a) identifying Mr. Hubbard's assets for purposes of Flynn's other litigation against L. Ron Hubbard, Mary Sue Hubbard, and/or various Churches of Scientology; (b) gaining control of Mr. Hubbard's assets for purposes of Flynn's other litigation against L. Ron Hubbard, Mary Sue Hubbard, and/or various Churches of Scientology; (c) attempting to locate the whereabouts of L. Ron Hubbard for purposes of Flynn's other litigation against L. Ron Hubbard, Mary Sue Hubbard, and/or various Churches of Scientology; (d) obtaining information for use in Flynn's other litigation against L. Ron Hubbard, Mary Sue Hubbard and/or various Churches of Scientology; (e) placing on the public record hostile and unfavorable statements about L. Ron Hubbard, Mary Sue Hubbard and Scientology, in order to discredit them, poison the public's mind against them and/or put pressure on them to assist his other litigation; (f) inducing a financial settlement for Ronald DeWolf to which he had no legitimate claim; (g) inducing a financial settlement on behalf of Flynn's clients suing L. Ron Hubbard, Mary Sue Hubbard and/or various Churches of Scientology; and (h) on information and belief, obtaining the information concerning Mr. Hubbards assets and/or whereabouts necessary to allow Flynn to then sue Mr. Hubbard as a sole defendant in the underlying

complaint herein and thereby secure and collect on a default judgment against Mr. Hubbard.

26. After Mary Sue Hubbard won the summary judgment in the probate suit, Flynn publicly acknowledged his collateral purposes in counseling, advising and instigating the bringing and maintaining of the probate action. He did so by: (1) stating to one or more third parties words to the effect that the judge's ruling established what Flynn had wanted to determine in the first place, i.e., that Mr. Hubbard is available as a defendant and has legally authorized representatives handling his affairs; (2) indicating in a speech given shortly after the summary judgment ruling that "we're going to accept that ruling; L. Ron Hubbard is not missing. His affairs are being conducted by Author Services, Inc. They're his authorized business agents; they're the people that you want to serve process on. You serve them. So now we're going to proceed in our lawsuit and with some new lawsuits by suing Mr. Hubbard through Author Services, Inc.," and (3) stating in a document filed in this case that his efforts "to locate defendant [L. Ron Hubbard] in order to serve him with process ... have included ... the filing of In re the Estate of L. Ron Hubbard, #47150 (Riverside Sup. Ct., Calif.)"

27. As a direct and proximate result of Flynn's counseling, advising and instigating the bringing and maintaining of the above-mentioned action, Counterclaimant has been damaged through having to provide attorneys' fees and costs of defending the probate suit, and through suffering emotional distress, including anxiety about her means of support, anxiety about intrusion into

hers and her husband's privacy and well being, and public humiliation.

28. Because the afore-mentioned actions of Flynn were malicious, Counterclaimant is entitled to punitive damages.

SECOND CAUSE OF ACTION:

ABUSE OF PROCESS (PROBATE SUIT)

29. Counterclaimant realleges paragraphs 1 through 28.

30. Flynn wilfully used process in the probate suit, in a manner not proper in the regular conduct of a proceeding, in the following respects:

A. He generated adverse publicity concerning the probate suit to discredit L. Ron Hubbard, Mary Sue Hubbard, and/or the religion of Scientology in order to improve the position of Flynn's clients in litigation against L. Ron Hubbard, Mary Sue Hubbard, and/or various Churches of Scientology, and used the pendency of the suit as a means of obtaining media exposure for his hostile and unfavorable views of L. Ron Hubbard and/or Scientology and to create pressure on the defendants in Flynn's Scientology litigation.

B. He included in the petition initiating the probate suit scandalous and derogatory information, which had no relationship to the issues in the suit and which was stricken from the petition as irrelevant to it, in order to prejudice the public and the court and to encourage widespread hostile and derogatory publicity concerning L. Ron Hubbard, Mary Sue Hubbard, and/or Scientology.

C. He filed the probate suit, and used its pendency, as a club or weapon to attempt to induce a financial settlement of the claims of his clients against L. Ron Hubbard, Mary Sue Hubbard, and/or various Churches of Scientology.

D. He filed the suit, and used its pendency, as a club or a weapon to attempt to induce a financial settlement for Mr. DeWolf from L. Ron Hubbard, Mary Sue Hubbard, and/or various Churches of Scientology, of which settlement he would have received a contingency fee portion.

E. He filed the suit, and used its pendency, to gain information about L. Ron Hubbard's private and financial affairs for use in his other litigation against L. Ron Hubbard, Mary Sue Hubbard, and/or various Churches of Scientology, including, on information and belief, for use in the underlying complaint herein as part of his previously described plan to identify Mr. Hubbard's assets and/or whereabouts and to obtain a default judgment against Mr. Hubbard.

F. He engaged in discovery in the suit for the purpose of gaining information concerning Mr. Hubbard's financial arrangements and/or whereabouts for use in other lawsuits in which L. Ron Hubbard, Mary Sue Hubbard, and/or various Churches of Scientology are defendants, including, on information and belief, for use in the underlying complaint herein as part of his previously described plan to identify Mr. Hubbard's assets and/or whereabouts and to obtain a default judgment against Mr. Hubbard.

G. He used the information obtained through discovery in the suit in other of his cases against L. Ron Hubbard, Mary Sue Hubbard and/or various Churches of Scientology, in violation of a specific court order prohibiting him from doing so.

H. He acted as DeWolf's counsel in the probate suit even though he knew, or should have known, that he had a conflict of interest with Mr. Hubbard which disqualified him from acting as counsel in the probate suit.

31. In engaging in the acts described in ¶30, Flynn acted maliciously, and with ulterior purposes and to obtain collateral advantages which are set forth in ¶25, above.

32. As a direct and proximate result of Flynn's abuse of process, Counterclaimant has been damaged through having to provide attorneys' fees and other costs in defending the probate suit, and through suffering emotional distress, including anxiety about her means of support, anxiety about the intrusion into hers and her husband's privacy and well being, and public humiliation.

33. Because the afore-mentioned actions of Flynn were malicious, Counterclaimant is entitled to punitive damages.

THIRD CAUSE OF ACTION:

LIBEL

34. Counterclaimant realleges paragraphs 1 through 33.

35. As a result of the filing of the probate suit, Mary Sue Hubbard was required to present in court extensive evidence concerning Mr. Hubbard's personal financial and business affairs in

order to respond to the unfounded allegations that Mr. Hubbard's estate was in need of attention, supervision and care and that Mr. Hubbard was a "missing person." Hence, Flynn succeeded in his attempt to discover information concerning Mr. Hubbard's financial affairs. On information and belief, Flynn was then in a position to move to implement the final part of his plan, which was to prepare a massive, unprovable and unfounded suit by himself against L. Ron Hubbard only, with the objective being to obtain a default judgment without the necessity of having to prove any of his claims and thereby to extract a financial return on his great investment of time and resources in his Scientology litigation.

36. On information and belief, Flynn proceeded to personally draft the underlying complaint herein (entitled Michael Flynn v. Lafayette Ronald Hubbard, No. 83-2642-C, D. Mass.) (hereafter "Flynn suit" or "Flynn action"). In September, 1983, after the complaint was written in a draft form, and prior to filing it, Flynn provided a copy of the draft complaint to a reporter for a Massachusetts newspaper chain, the North Shore Weeklies. Among the statements made in the draft complaint are the following:

- A. "This lawsuit ... [is one] for a sustained pattern of intentional torts perpetrated by Hubbard and his agents and employees pursuant to a written conspiracy to 'destroy' the plaintiff." (pg.1)
- B. "(2) [L. Ron] Hubbard is the founder, controller, principal and absolute dictorial authority over a

variety of corporations which serve as his agents. These corporations include the Church of Scientology of California, Inc., ("CSC"), Church of Scientology of Boston, Inc., ("CSB"), Religious Technology Center ("RTC"), Church of Scientology International ("CSI"), Authors Services, Inc., ("ASI"), and Flag Services Organization, Inc., ("FSO"). The foregoing corporations, acting specifically as agents of Hubbard within the scope of the authority granted to them by Hubbard, and upon the express orders of Hubbard engaged in the conspiracy to perpetrate the torts alleged herein."

(pg. 3)

- C. "(4)(c) Hubbard established, supervised and controlled in writing an organization called the 'Guardian's Office' ('G.O.') which he placed in each of the 'Scientology' corporations for purposes of enforcing his express daily orders..." (p. 5)
- D. "(6) At all times material to this Complaint, Hubbard has controlled said 'Scientology' corporations ... through several key individual agents. These agents include his wife, Mary Sue Hubbard" (p. 9).
- E. "(9) Pursuant to the Fair Game Policy ..., Hubbard and his agents entered into a written conspiratorial scheme, code named 'Operation Juggernaut.' 'Operation Juggernaut' was designed to 'lie to, cheat, sue and destroy' the plaintiff by infiltrating plaintiff's law offices; stealing plaintiff's files, generally

harassing plaintiff; 'separating' plaintiff from his clients; defaming plaintiff privately and in the news media; bringing nine groundless legal actions against plaintiff and his colleagues and employees; bringing nine groundless bar complaints to get plaintiff disbarred; placing water in the fuel tanks of plaintiff's airplane to kill him; stealing plaintiff's telephone codes and charging calls to his code; attempting to 'frame' plaintiff by stealing the telephone codes of a California company unknown to plaintiff; calling plaintiff's clients and charging it to the California company; harassing plaintiff's clients and stealing their files from plaintiff's office; calling in a bomb threat to plaintiff; threatening to poison plaintiff; kidnapping plaintiff's clients; issuing outrageously false and defamatory press releases for distribution on the streets of Boston, Massachusetts; Clearwater, Florida; and Los Angeles, California; writing false and defamatory articles and distributing them at plaintiff's law school; providing false financial information to the IRS to initiate an investigation; stealing plaintiff's telephone toll call records from the telephone company; conducting illegal tape-recording of plaintiff's calls; illegally obtaining plaintiff's bank account information; trespassing onto plaintiff's private property; interfering with plaintiff's relationships with his

clients; placing dirt in plaintiff's automobile fuel tank; engaging in a wholesale pattern of abusive and harrassive conduct." (pgs. 13-14).

F. "(37) Hubbard and his agents, including but not limited to 'Scientology' corporations set forth in paragraph 2, and individual agents such as Mary Sue Hubbard, David Miscavige, Joseph Lisa, Arthur Maren, James Mulligan, Kevin Tighe, and others, together with attorneys retained by Hubbard's agents including but not limited to Harvey Silverglate, Jay Roth, Steven Burris, Donald Randolph, Sanford Katz, Dan Warren, John Peterson and others, combined together to accomplish the unlawful purposes set forth herein, and used the unlawful means set forth herein The following overt acts were committed by Hubbard and his agents pursuant to the conspiratorial scheme, code named 'Operation Juggernaut.' These overt acts constitute unlawful purposes and unlawful means:

"(a) Infiltration of plaintiff's office by Ford Schwartz, Silvana Garritano, Bill Broderick and others for the purpose of stealing documents and information, which documents and information were actually stolen by them, while posing as clients and employees of plaintiff.

"(b) Trespassing onto private property every day for a period of two years for the purpose of stealing plaintiff's trash. G.O. agents, acting pursuant to

Hubbard's policies and orders devised elaborate schemes to trespass onto the property at 12 Union Wharf during the early morning hours and carried electronic beepers for the purpose of avoiding detection.

"(c) Using highly confidential attorney-client communications and work-product stolen from plaintiff's trash and burglarized from his office, and stolen directly from his clients for the purpose of separating plaintiff from his clients, disrupting plaintiff's law practice, destroying plaintiff's reputation and business, interfering with the plaintiff's cases

"(d) Adopting a written plan to sue the plaintiff and his colleagues, clients and employees in jurisdictions throughout the U.S. for the sole purpose of harassing the plaintiff

"(e) Adopting a written plan to 'get Michael Flynn disbarred' and then filing 9 separate groundless, frivolous Complaints with the Board of Bar Overseers.

"(f) Threatening to poison plaintiff by sending him a postcard stating that Hubbard's agents were 'inside' his operation and that he should have his food tested.

"(g) Placing water in the fuel tanks of plaintiff's airplane on or about October 19, 1979, nearly resulting in a fatal crash with 4 occupants in the airplane at the time, including plaintiff's son.

"(h) Calling plaintiff's home at all hours of the night to disturb plaintiff while he was sleeping.

- "(i) Making obscene telephone calls to plaintiff's neighbors, suggesting that it was plaintiff.
- "(j) Adopting a written plan to knowingly libel and slander the plaintiff in order to destroy his reputation.
- "(k) Adopting a written plan to knowingly and intentionally inflict emotional distress on the plaintiff by conducting all of the activities set forth in this Complaint.
- "(l) Attempting to 'frame' plaintiff of the crime of interstate theft of telephone codes.
- "(m) Stealing plaintiff's telephone codes and charging calls to his code.
- "(n) Threatening plaintiff's life on the telephone.
- "(o) Sending a bomb threat to plaintiff's building.
- "(p) Putting dirt in the fuel tank of plaintiff's car." (pgs. 55-62).

37. By the aforesaid statements described in ¶36, Flynn intended to convey and did convey to anyone reading the draft complaint the defamatory meaning that Mary Sue Hubbard was a knowing participant in, and committed unlawful acts in furtherance of, a conspiracy to, among other things, murder him, steal from him, and destroy him by false, illegal and unconscionable means.

38. On information and belief, Flynn assumed, or should reasonably have foreseen, in making the statements contained in ¶36, that those who read the draft complaint were aware of or

would discover that Mary Sue Hubbard had supervised the "Guardian's Office" referred to in ¶36-B, above, for a substantial period of the time referred to in the draft complaint, and that said readers would thereby understand that Mary Sue Hubbard was a central and key figure and actor in the conspiracy alleged therein.

39. It was reasonably foreseeable and expected by Flynn that the contents of the draft complaint which he provided to the reporter for North Shore Weeklies would be shown or be described to others employed at or associated with North Shore Weeklies. Said reporter did in fact show, or describe the contents of, said draft complaint to others who were employed at or associated with North Shore Weeklies.

40. The reporter for the North Shore Weeklies to whom Flynn provided the draft complaint, as well as others at North Shore Weeklies to whom he showed it, or described its contents, understood said draft complaint to mean that Mary Sue Hubbard was a knowing participant in, and committed unlawful acts in furtherance of, a conspiracy to, among other things, murder Flynn, steal from him, and destroy him by false, illegal and unconscionable means.

41. On information and belief, those employed or associated with North Shore Weeklies who read, or learned the contents of, said draft complaint were aware of or discovered that Mary Sue Hubbard had supervised the "Guardian's Office" for a substantial period of the time referred to in the draft complaint, and understood the allegations recited in ¶36, above, to include that Mary

Sue Hubbard was a central and key figure and actor in the conspiracy alleged therein.

42. The meaning of the statements contained in ¶36 to a reasonable person was that Mary Sue Hubbard was a knowing participant in, and committed unlawful acts in furtherance of, a conspiracy to murder Flynn, to steal from him, and to destroy him by false, illegal and unconscionable means.

43. By the statements contained in ¶36, Flynn charged Counterclaimant Mary Sue Hubbard with the commission of serious criminal conduct.

44. On information and belief, Flynn made the aforementioned defamatory statements with reckless disregard as to their truth or falsity and to their meaning to those who read them.

45. On information and belief, Flynn made the aforesaid defamatory statements knowing them to be false, and made them intentionally and recklessly for the purpose of damaging Counterclaimant Mary Sue Hubbard.

46. On information and belief, Flynn made the aforesaid defamatory statements knowing that he did not know whether they were true.

47. By reason of the aforesaid acts and omissions of Flynn, Counterclaimant Mary Sue Hubbard has sustained actual serious damages, including but not limited to the following: (a) Her reputation has been grievously injured. (b) She has suffered public humiliation and embarrassment, thereby causing significant emotional harm and suffering.

48. Because the afore-mentioned actions of Flynn were malicious, Counterclaimant is entitled to punitive damages.

FOURTH CAUSE OF ACTION:

LIBEL

49. Counterclaimant realleges paragraphs 1 through 48.

50. On information and belief, Flynn disseminated or caused to be disseminated the underlying complaint herein to various news media representatives, including but not limited to the Clearwater Sun, for the specific purpose of publishing the complaint to said news media representatives and for the additional purpose of having those news media representatives publish the information contained in the complaint to the public at large.

51. Among the statements made in the underlying complaint are the following:

- A. "This suit seeks damages for acts perpetrated against plaintiff ... by defendant and various of his individual and organizational agents and employees pursuant to a written conspiracy to 'destroy' the plaintiff." (pg.1)
- B. "4. At all times material hereto, Hubbard has done business ... directly through various entities known as the Church of Scientology of California, Inc. ('CSC'), the Church of Scientology of Boston, Inc. ('CSB'), Flag Services Organization, Inc. ('FSO') Religious Technology Center ('RTC'), Church of Scientology International ('CSI'), Author Services, Inc., ('ASI'),

as well as various other organizations (collectively 'Scientology organizations') and individuals. ..."
(pg. 3).

- C. 5. Defendant [L. Ron Hubbard] is the founder, controller, principal and absolute authority over the Scientology organizations and individuals. The Scientology organizations, as well as various individuals, acting as agents of defendant within the scope of the authority granted to them by and upon his express orders, engaged in the conspiracy to perpetrate the torts alleged herein." (pg. 5)
- D. "8. Hubbard established, supervised and controlled an organization called the 'Guardian's Office' ('G.O.') which he placed in each of the 'Scientology' corporations for purposes of enforcing his express daily orders. ..." (p. 6)
- E. "9. At all times material hereto, Hubbard has controlled said 'Scientology' corporations ... through several key individual agents. These agents include his wife, Mary Sue Hubbard" (p. 9).
- F. "13. Pursuant to the Fair Game Policy ..., Hubbard and his agents entered into a written conspiratorial scheme, code named 'Operation Juggernaut.' 'Operation Juggernaut' was designed to 'lie to, cheat, sue and destroy' the plaintiff by infiltrating plaintiff's law offices; stealing plaintiff's files, generally harassing plaintiff; 'separating' plaintiff from his

clients; defaming plaintiff privately and in the news media; bringing nine groundless legal actions against plaintiff and his colleagues and employees; bringing nine groundless bar complaints to get plaintiff disbarred; placing water in the fuel tanks of plaintiff's airplane to kill him; stealing plaintiff's telephone codes and charging calls to his code; attempting to 'frame' plaintiff by stealing the telephone codes of a California company unknown to plaintiff then calling plaintiff's clients and charging it to the California company; harassing plaintiff's clients and stealing their files from plaintiff's office; calling in a bomb threat to plaintiff; threatening to poison plaintiff; kidnapping plaintiff's clients; issuing outrageously false and defamatory press releases for distribution on the streets of Boston, Massachusetts, Clearwater, Florida, and Los Angeles, California; writing false and defamatory articles and distributing them at plaintiff's law school; providing false financial information to the IRS to initiate an investigation; stealing plaintiff's telephone toll call records from the telephone company; conducting illegal tape-recording of plaintiff's calls; illegally obtaining plaintiff's bank account information; trespassing onto plaintiff's private property; interfering with plaintiff's relationships with his clients; placing dirt in the plaintiff's

automobile fuel tank; engaging in a wholesale pattern of abusive and harrassive conduct." (pgs. 11-12).

- G. "(37) Hubbard and his agents, including but not limited to 'Scientology' organizations set forth in paragraph #4, and individual agents such as Mary Sue Hubbard, David Miscavige, Joseph Lisa, Arthur Maren, James Mulligan, Kevin Tighe, and others, together with attorneys retained by Hubbard's agents including but not limited to Harvey Silverglate, Jay Roth, Steven Burris, Donald Randolph, Sanford Katz, Dan Warren, John Peterson and others, combined together to accomplish the unlawful purposes set forth herein, and used the unlawful means set forth herein The following overt acts were committed by Hubbard and his agents pursuant to the conspiratorial scheme, code named 'Operation Juggernaut.' These overt acts constitute unlawful purposes and unlawful means:

"(a) Infiltration of plaintiff's office by Ford Schwartz, Silvana Garritano, Bill Broderick and others for the purpose of stealing documents and information, which documents and information were actually stolen by them, while posing as clients and employees of plaintiff.

"(b) Trespassing onto private property ... for the purpose of stealing plaintiff's trash. G.O. agents, acting pursuant to Hubbard's policies and orders devised elaborate schemes to trespass onto the property

at 12 Union Wharf during the early morning hours and carried electronic beepers for the purpose of avoiding detection.

"(c) Using highly confidential attorney-client communications and work-product stolen from plaintiff's trash and burglarized from his office, and stolen directly from his clients for the purposes as set forth supra."

"(d) Adopting a written plan to sue the plaintiff and his colleagues, clients and employees in jurisdictions throughout the U.S. for the sole purpose of harassing the plaintiff

"(e) Adopting a written plan to 'get Michael Flynn disbarred' and then filing 9 separate groundless, frivolous Complaints with the Board of Bar Overseers.

"(f) Threatening to poison plaintiff by sending him a postcard stating that Hubbard's agents were 'inside' his operation and that he should have his food tested.

"(g) Placing water in the fuel tanks of plaintiff's airplane on or about October 19, 1979, nearly resulting in a fatal crash with 4 occupants in the airplane at the time, including plaintiff's son.

"(h) Calling plaintiff's home at all hours of the night to disturb plaintiff while he was sleeping.

"(i) Making obscene telephone calls to plaintiff's neighbors, suggesting that it was plaintiff.

"(j) Adopting a written plan to knowingly libel and slander the plaintiff in order to destroy his reputation.

"(k) Adopting a written plan to knowingly and intentionally inflict emotional distress on the plaintiff by conducting all of the activities set forth in this Complaint.

"(l) Attempting to 'frame' plaintiff of the crime of interstate theft of telephone codes.

"(m) Stealing plaintiff's telephone codes and charging calls to his code.

"(n) Threatening plaintiff's life on the telephone.

"(o) Sending a bomb threat to plaintiff's building.

"(p) Putting dirt in the fuel tank of plaintiff's car." (pgs. 50-54).

52. By the aforesaid statements described in ¶51, Flynn intended to convey and did convey to anyone reading the complaint the defamatory meaning that Mary Sue Hubbard was a knowing participant in, and committed unlawful acts in furtherance of, a conspiracy to, among other things, murder him, steal from him, and destroy him by false, illegal and unconscionable means.

53. On information and belief, Flynn assumed, or should reasonably have foreseen, in making the statements contained in ¶51, that those who read the complaint were aware of or would discover that Mary Sue Hubbard had supervised the "Guardian's Office" referred to in ¶51-B, supra, for a substantial period of the time referred to in the complaint, and that said readers

would thereby understand that Mary Sue Hubbard was a central and key figure and actor in the conspiracy alleged therein.

54. The various media representatives to whom Flynn provided the complaint, as well as the others to whom they showed it, understood said complaint to mean that Mary Sue Hubbard was a knowing participant in, and committed unlawful acts in furtherance of, a conspiracy to, among other things, murder Flynn, steal from him, and destroy him by false, illegal and unconscionable means.

55. It was reasonably foreseeable and expected by Flynn that the contents of the complaint which he provided to the various media representatives would be shown to others employed at their places of employment. On information and belief, said media representatives did in fact show said complaint to others who were employed at or associated with their places of employment.

56. On information and belief, those employed or associated with the various media representatives described above who read said complaint were aware of or discovered that Mary Sue Hubbard had supervised the "Guardian's Office" for a substantial period of the time referred to in the complaint, and understood the allegations recited in ¶51, above, to include that Mary Sue Hubbard was a central and key figure and actor in the conspiracy alleged therein.

57. The meaning of the statements contained in ¶51 to a reasonable person was that Mary Sue Hubbard was a knowing participant in, and committed unlawful acts in furtherance of, a conspiracy to murder Flynn, to steal from him, and to destroy him

by false, illegal and unconscionable means.

58. By the statements contained in ¶51, Flynn charged Counterclaimant Mary Sue Hubbard with the commission of serious criminal conduct.

59. On information and belief, Flynn made the aforementioned defamatory statements with reckless disregard as to their truth or falsity and to their meaning to those who read them.

60. On information and belief, Flynn made the aforesaid defamatory statements knowing them to be false, and made them intentionally and recklessly for the purpose of damaging Counterclaimant Mary Sue Hubbard.

61. On information and belief, Flynn made the aforesaid defamatory statements knowing that he did not know whether they were true.

62. By reason of the aforesaid acts and omissions of Flynn, Counterclaimant Mary Sue Hubbard has sustained actual serious damages, including but not limited to the following: (a) Her reputation has been grievously injured. (b) She has suffered public humiliation and embarrassment, thereby causing significant emotional harm and suffering.

63. Because the afore-mentioned actions of Flynn were malicious, Counterclaimant is entitled to punitive damages.

FIFTH CAUSE OF ACTION:

ABUSE OF PROCESS (FLYNN SUIT)

64. Counterclaimant realleges paragraphs 1 through 63.

65. On September 7, 1983, believing that he had now identified Mr. Hubbard's financial arrangements and the means to trace his assets, and believing that Mr. Hubbard would not appear to defend in a suit naming him as a defendant, Flynn filed the underlying complaint herein, naming only Mr. Hubbard as a defendant.

66. The Flynn complaint alleges that L. Ron Hubbard, Mary Sue Hubbard and others knowingly and intentionally conspired to murder Flynn, steal from him, and destroy him by false, illegal and unconscionable means, through a network of alleged agents. The complaint contains no allegation that L. Ron Hubbard himself engaged in any directly tortious conduct toward Mr. Flynn.

67. One information and belief, Flynn did not believe, when he filed the Flynn complaint, that L. Ron Hubbard or Mary Sue Hubbard had any personal knowledge of, had participated in, or had combined with others to accomplish the tortious or unlawful objectives or activities alleged in the complaint.

68. On information and belief, Flynn, when he filed the Flynn complaint, had no reasonable basis to believe, and had received no reasonably reliable information to confirm, that L. Ron Hubbard or Mary Sue Hubbard had any personal knowledge of, had participated in, or had combined with others to accomplish the tortious or unlawful objectives or activities alleged in the complaint.

69. On information and belief: Flynn, at the time he filed the underlying complaint, named only L. Ron Hubbard as a defendant because he believed that he would never be put to the

necessity of proving his massive, unprovable and unfounded allegations against Mr. Hubbard. Flynn believed and assumed that L. Ron Hubbard would not appear to defend the suit and that he could accordingly obtain a default judgment against Mr. Hubbard while never having to prove his allegations in litigation with any of the persons named as agents of Mr. Hubbard in the complaint.

70. In the Flynn complaint, Flynn named Counterclaimant Mary Sue Hubbard as an agent of Mr. Hubbard who carried out and directed tortious and criminal activities. On information and belief, he did not name her as defendant so that she could not appear and defend against the unfounded allegations made in the complaint.

71. On information and belief, Flynn arranged with unknown persons to have anonymous press releases announcing his suit, along with a copy of the complaint, distributed to various newspapers, including but not limited to the Clearwater Sun, along with copies of the Flynn complaint, shortly after September 7, 1983.

72. On information and belief: Flynn willfully used process in the Flynn suit, in a manner not proper in the regular conduct of a proceeding, in the following respects:

A. He filed the suit and used and continues to use its pendency as a club or a weapon to attempt to induce a financial settlement of the claims of his clients in their litigation against L. Ron Hubbard, Mary Sue Hubbard, and/or various Churches of Scientology.

B. He filed the suit without any good faith belief that it was or is well founded and included in it allegations which did not believe, and/or which he had no reasonable basis to believe, and had no reasonably reliable information to confirm, without any intention of ever having to prove its allegations but rather for the sole purpose of obtaining a default judgment against L. Ron Hubbard.

C. He named Mary Sue Hubbard as a person responsible for all the wrongful and criminal conduct alleged in the suit but did not name her as a defendant in order to prevent her from being able to appear and defend against the unfounded allegations in the complaint.

D. He filed the suit and used and continues to use its pendency as a litigation tactic for his clients' other suits against L. Ron Hubbard, Mary Sue Hubbard and/or various Churches of Scientology and without any reasonable or good faith belief that the suit was or is well founded.

E. He included in the complaint initiating the suit allegations which he knew or reasonably should have known to be false in order to prejudice the public and the court and to encourage widespread hostile and derogatory publicity concerning L. Ron Hubbard, Mary Sue Hubbard and/or various Churches of Scientology.

F. He generated adverse publicity concerning the suit to discredit L. Ron Hubbard, Mary Sue Hubbard and/or the religion of Scientology in order to improve the position of his clients in his 'Scientology litigation' and as a means

of obtaining media exposure for his hostile and unfavorable views of L. Ron Hubbard, Mary Sue Hubbard and/or Scientology.

73. On information and belief: In engaging in the acts described in this Fourth Cause of Action, Flynn acted maliciously and with ulterior purposes and to gain collateral advantages which included: (a) to induce a financial settlement or recovery on behalf of Flynn's clients suing Mr. and Mrs. Hubbard and/or various Churches of Scientology; (b) to obtain a large default judgment for himself against Mr. Hubbard without ever being put to the burden of proving the allegations in his complaint; and (c) to place on the public record hostile and defamatory statements about L. Ron Hubbard, Mary Sue Hubbard and/or Scientology, in order to discredit them and/or poison the public's mind against them, thus improving his overall position in his Scientology litigation.

74. As a direct and proximate result of Flynn's abuse of process, Counterclaimant has been damaged through suffering emotional distress, including anxiety about her means of support and public humiliation, and through having to provide attorneys fees and other costs to move to intervene as defendant in the Flynn suit in order to protect her own good name and reputation and to protect her husband's assets and income on which she is dependent for support and in which she has an interest as a legatee.

75. Because Flynn's conduct was malicious, Counterclaimant is entitled to punitive damages.

WHEREFORE, Counterclaimant demands and prays judgment against Flynn as follows:

1. Compensatory damages in the amount of \$3 million on the first cause of action (malicious prosecution);
2. Punitive damages in the amount of \$3 milion on the first cause of action (malicious prosecution);
3. Compensatory damages in the amount of 3 million on the second cause of action (abuse of process - probate suit);
4. Punitive damages in the amount of \$3 milion on the second cause of action (abuse of process -- probate suit).
5. Compensatory damages in the amount of \$1 million on the third cause of action (libel);
6. Punitive damages in the amoiant of \$1 million on the third cause of action (libel);
7. Compensatory damages in the amount of \$1 million on the fourth cause of action (libel);
8. Punitive damages in the amount of \$1 million on the fourth cause of action (libel);
9. Compensatory damages in the amount of \$3 million on the fifth cause of action (abuse of process -- Flynn suit);
10. Punitive damages in the amount of \$3 million on the fifth cause of action (abuse of process -- Flynn suit);
11. Costs of this action.

DATED: September 30, 1983

Respectfully submitted,

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DEMAND FOR JURY TRIAL

Counterclaimant Mary Sue Hubbard demands a jury trial on
her counterclaim.

DATED: September 30, 1983

Respectfully submitted,

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